BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 141 19 91

Bill H _____ S 224 Original bill & history ✓C

H. Committee on Local Gov.		S. Committee on Local Gov.	
Hearing Date(s) 3-11	✓C	Hearing Date(s) 2-12	✓C
_____	___C	2-16	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SB 223 INTRODUCED BY HALLIGAN, ET AL.
REVISE DEFICIENCY JUDGMENTS

1/29	INTRODUCED		
1/30	REFERRED TO BUSINESS & INDUSTRY		
1/30	FIRST READING		
2/05	HEARING		
2/15	TABLED IN COMMITTEE		

SB 224 INTRODUCED BY VAUGHN, ET AL.
AMEND LAWS FOR ESTABLISHMENT/FUNDING OF LOCAL AIR POLLUTION CONTROL PROGRAMS
BY REQUEST OF DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

1/29	INTRODUCED		
1/30	REFERRED TO LOCAL GOVERNMENT		
1/30	FIRST READING		
2/12	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	48	0
2/19	3RD READING PASSED	45	5
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO LOCAL GOVERNMENT		
3/11	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/12	PLACED ON CONSENT CALENDAR		
3/14	3RD READING CONCURRED	91	9
	RETURNED TO SENATE		
3/18	SIGNED BY PRESIDENT		
3/19	SIGNED BY SPEAKER		
3/19	TRANSMITTED TO GOVERNOR		
3/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 141	EFFECTIVE DATE: 3/20/91	

SB 225 INTRODUCED BY GAGE
REVISE LAWS FOR ADMINISTRATION OF OIL AND GAS BOARD AND REVISE CIVIL PENALTY
BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

1/29	INTRODUCED		
1/30	REFERRED TO NATURAL RESOURCES		
1/30	FIRST READING		
1/30	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
2/11	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED		
2/12	PLACED ON CONSENT CALENDAR		
2/15	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/16	FIRST READING		
2/16	REFERRED TO NATURAL RESOURCES		
3/12	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED		
3/18	2ND READING CONCURRED AS AMENDED	91	0
3/19	3RD READING CONCURRED	95	4
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS CONCURRED	47	0
3/25	3RD READING AMENDMENTS CONCURRED	47	0

Senate BILL NO. 224

INTRODUCED BY Vaughn Clarke, Benjamin Hart

BY REQUEST OF THE DEPARTMENT OF J. Peterson

HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS RELATING TO ESTABLISHING AND FUNDING LOCAL AIR POLLUTION CONTROL PROGRAMS; CLARIFYING EXISTING AUTHORITY RELATING TO THE COLLECTION OF PERMIT FEES BY LOCAL AIR POLLUTION CONTROL PROGRAMS; CLARIFYING THE RELATIONSHIP BETWEEN THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND LOCAL AIR POLLUTION CONTROL PROGRAMS; AMENDING SECTIONS 75-2-301 AND 75-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-2-301, MCA, is amended to read:

"75-2-301. Local air pollution control programs. (1) A After public hearing, a municipality or county may establish and administer a local air pollution control program on ~~being-petitioned-by-15%-of-the--qualified--electors--in--its jurisdiction--and,~~ if the program is consistent with this chapter and is approved by the board. ~~after-a-public-hearing conducted-under-75-2-111,-may-thereafter-administer--in--its jurisdiction-the-air-pollution-control-program-which:~~

~~(a)--provides-by-ordinance-or-local-law-for-requirements compatible--with,--more--stringent,--or--more-extensive-than those-imposed-by-75-2-203,-75-2-212,-and-75-2-402-and--rules issued-under-these-sections;~~

~~(b)--provides--for-the-enforcement-of-these-requirements by-appropriate-administrative-and-judicial-process;-and~~

~~(c)--provides-for--administrative--organization,--staff, financial,--and-other-resources-necessary-to-effectively-and efficiently-carry-out-its-program.~~

(2) If a local air pollution control program established by a county encompasses all or part of a municipality, the county and each municipality shall approve the program in accordance with subsection (1).

(3) The board may approve a local air pollution control program that:

(a) provides by ordinance or local law for requirements compatible with, more stringent than, or more extensive than those imposed by 75-2-203, 75-2-204, 75-2-211, 75-2-212, 75-2-215, and 75-2-402 and rules adopted under these sections;

(b) provides for the enforcement of requirements established under subsection (3)(a) by appropriate administrative and judicial processes; and

(c) provides for administrative organization, staff, financial resources, and other resources necessary to effectively and efficiently carry out the program. As part

INTRODUCED BILL SB 224

of meeting these requirements, a local air pollution control program may administer the permit fee provisions of 75-2-211. The permit fees collected by a local air pollution control program must be deposited in a county special revenue fund to be used by the local air pollution control program for administration of program activities conducted pursuant to 75-2-211 and 75-2-215.

~~(2)~~(4) If the board finds that the location, character, or extent of particular concentrations of population, air contaminant sources, or geographic, topographic, or meteorological considerations or any combination of these are such as to make impracticable the maintenance of appropriate levels of air quality without an areawide air pollution control program, the board may determine the boundaries within which the program is necessary and require it as the only acceptable alternative to direct state administration.

~~(3)~~(5) If the board has reason to believe that any part of an air pollution control program in force under this section is either inadequate to prevent and control air pollution in the jurisdiction to which the program relates or ~~that--the--program~~ is being administered in a manner inconsistent with this chapter, the board shall, on notice, conduct a hearing on the matter.

~~(4)~~(6) If, after the hearing, the board determines that

any part of the program is inadequate to prevent and control air pollution in the jurisdiction to which it relates or that it is not accomplishing the purposes of this chapter, it shall require that necessary corrective measures be taken within a reasonable time, not to exceed 60 days.

~~(5)~~(7) If the jurisdiction fails to take these measures within the time required, the department shall administer within ~~such~~ that jurisdiction all of the provisions of this chapter that are necessary to correct the deficiencies found by the board. The department's control program supersedes all municipal or county air pollution laws, rules, ordinances, and requirements in the affected jurisdiction. The cost of the ~~program--shall--be~~ department's action is a charge on the ~~municipality--or--county~~ jurisdiction.

~~(6)~~(8) If the board finds that the control of a particular air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local jurisdiction or may be more efficiently and economically performed at the state level, it may direct the department to assume and retain control over that air contaminant source. No charge may be assessed against the jurisdiction therefor. Findings made under this subsection may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

~~(7)~~(9) A jurisdiction in which the department administers all or part of its air pollution control program under subsection ~~(5)~~(7) ~~of this section~~ may, with the approval of the board, establish or resume an air pollution control program ~~which~~ that meets the requirements of subsection ~~(1)~~ (3) ~~of this section~~.

~~(8)~~(10) A municipality or county may administer all or part of its air pollution control program in cooperation with one or more municipalities or counties of this state or of other states."

Section 2. Section 75-2-302, MCA, is amended to read:

"**75-2-302. State and federal aid.** (1) Any local air pollution control program meeting the requirements of this chapter and rules made pursuant thereto shall be eligible for state aid in an amount ~~equal~~ up to 30% of the locally funded annual operating cost thereof.

(2) Federal aid granted to the state for developing or maintaining a local air pollution control program that is subsequently granted to a local program is not considered state aid.

~~(2)~~(3) Subdivisions of the state may make application for, receive, administer, and expend any federal aid for the control of air pollution or the development and administration of programs related to air pollution control, provided ~~that any such application is first submitted to and~~

~~approved by the board. The board shall approve any such application if it is consistent with this chapter and any other applicable requirements of law~~ the program is currently approved by the board under 75-2-301."

NEW SECTION. **Section 3.** **Effective date.** [This act] is effective on passage and approval.

-End-

CHAIRMAN--ESTHER BENGTSON
NORMAL SCHEDULE==> SITE: ROOM 405 DAYS: T,TH,S TIME: 3:00 P.M.

SECRETARY-JOYCE INCHAUSPE-CORSEN

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0107	1/17	1/29		DO PASS		2/01
BENGTSON, ESTHER			REVISE AMOUNT A LOCAL GOVERNMENT MAY APPROPRIATE TO FUND A STUDY COMMISSION			
SB0108	1/17	1/29		PASS AS AMENDED		2/01
BENGTSON, ESTHER			REVISE ELECTION PROCEDURES FOR IRRIGATION DISTRICT TRUSTEES			
SB0126	1/18	1/29		TABLED ON 02/01		
AKLESTAD, GARY			MAKE ALL LOCAL ELECTIONS NONPARTISAN			
SB0156	1/22				STATE ADMIN.	
DOHERTY, STEVE			CLARIFY & GENERALLY REVISE INITIATIVE PETITION & REFERENDUM LAWS			
SB0160	1/22	1/31		PASS AS AMENDED		2/06
KENNEDY, JR., ED			REVISE DISTRIBUTION PROCEDURES FOR THE 9-1-1 TELECOMMUNICATIONS ACCOUNT			
SB0162	1/22	1/31		DO PASS		2/01
HARDING, ETHEL			ELIMINATE REQUIREMENT TO FILE CLAIM LOCATION WITH DEPARTMENT OF STATE LANDS			
SB0166	1/22	2/05		DO PASS		2/06
JERGESON, GREG			ALLOW LOCAL GOVERNMENT TO ESTABLISH EMPLOYEE INCENTIVE AWARD PROGRAM			
SB0189	1/23	2/07		PASS AS AMENDED		2/16
BECK, TOM			GENERAL REVISION OF LOCAL GOVERNMENT SOLID WASTE MANAGEMENT LAWS			
SB0195	1/25	2/07		PASS AS AMENDED		2/16
BENGTSON, ESTHER			DEFINE WATER USER ENTITY			
SB0221	1/29	2/12		DO PASS		2/20
HARDING, ETHEL			REQUIRING AN ELECTION TO CONSOLIDATE COUNTY OFFICES			
SB0224	1/30	2/12		PASS AS AMENDED		2/16
VAUGHN, ELEANOR			AMEND LAWS FOR ESTABLISHMENT/FUNDING OF LOCAL AIR POLLUTION CONTROL PROGRAMS			

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Vice Chairman Eleanor Vaughn, on February 12, 1991, at 3:20 p.m.

ROLL CALL

Members Present:
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: Esther Bengtson, Chairman (D)

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Senator Vaughn turned the chair over to the senior member of the committee, Senator Eck.

HEARING ON SB-224

Presentation and Opening Statement by Sponsor: Senator Vaughn, District #1, Lincoln County, opened by stating that she was carrying this bill for the Department of Health and Environmental Sciences. She read the bill. In many of the areas there are real difficult air quality problems, and the Federal and State Government are finding it necessary to establish rules and regulations to operate these. Right now it is very difficult for local governments to set up programs that they can manage themselves. This bill would allow them the authority to control these programs. There are some amendments being purposed that will make this bill comply with the Federal Regulations, and there are proponents from the local air quality board who will explain them.

Proponents' Testimony: Bob Raisch, Montana Department of Health and Environmental Sciences (MDHES), outlined the four major objectives of the bill. (Exhibit 1). Mr. Raisch said four communities have local air quality control programs, they are Missoula, Cascade, Yellowstone and Lewis and Clark counties. Mr. Raisch said the amendments (Exhibit #2) are necessary due to new federal guidance concerning requirements of the new Federal Clean Air Act. The second set of amendments (Exhibit #2A) were worked out with several industry members who were concerned that local government not enact a second set of standards that these industries would have to comply to.

Dan Powers, Environmental Health Department, supported this bill. (Exhibit #3).

Gerald Griner, County Commissioner, Lincoln County, said in Lincoln county they do have a severe air quality problem. The board of county commissioners and the sanitarian, Ron Anderson, have been working hard to come up with a solution. By adding the local control program, it would allow each county to address the problems in the particular area. Through the process of the public hearings and comment period it would allow the local people ample opportunity to be involved in the proposal. He urged the committee to support this legislation.

Larry Fenster, Lewis and Clark County Health Department, said that Lewis and Clark does have an air pollution control district. They were fortunate to get 15% of the population to sign up for support of the program. He could see a problem in a community such as Lincoln or Augusta trying to develop a district to control air pollution. He felt it would be a real problem getting enough signatures, and therefore he is a proponent of this bill.

Jan Gilman, State Air Quality Bureau, presented written testimony from Jim Carlson, Director, Department Health and Environmental Sciences, letter of support (Exhibit #4). She read part of the testimony. She asked the committee to support this bill.

Steve Brown, Noranda Minerals, said the company supported this bill with the amendments presented. He thanked the State Health Department for the cooperation on preparing amendments with the industries involved. They agree with the concepts and feel the amendments address those major industrial sources already covered by federal regulations. He thanked Mr. Raisch for sitting down with them. It is Noranda's hope, that over the next few years, local governments that have spoke today can in

fact finalize these amendments and deal with the concerns that affect the air quality in the state. There are two significant changes in this bill of existing law. The key section is the one that allows local air pollution district to impose standards or permit requirements that are more extensive than state of federal requirements. That is an existing proviso in the law. The difference is, as you have heard in testimony today, that it is very difficult if not impossible to create local air pollution districts, and secondly, they don't have a funding source. Both of those problems will be addressed by this bill. Noranda's concern and the concerns of others, is that absent of the amendments that we have worked out with the State Health Department, major sources in the state could find themselves in a situation where they have spent 3-5 years going through an EIS process, paying for the EIS and the permit from the State Health Department, only to find that if there was some dissatisfaction with that permit at the local level, that a local district would be formed. Then we would find ourselves subject to a third set of standards and or a more extensive permit requirement. So conceptually the amendments worked out with the Health Department satisfy everyone. We have no objection to a local air pollution program that is aimed at auto exhaust, wood stoves, road dust, etc. The other things that perhaps do not have a priority attention of the State Air Quality Bureau. No one has said at the local level that they want to get into regulating of major sources such as power plants, stone container, or major hard rock developments. The amendments need to define the scope of the bill to those concerns such as auto exhaust. The two sets of amendments, and (Exhibit #2A) address Noranda's concern, and allow local governments the flexibility to deal with problems they want to address. As a resident of Lewis and Clark county, he is very thankful that we have local air quality districts that deal with wood stove smoke and other problems. He urged the committee's adoption of the amendments.

John Fitzpatrick, Director of Community and Governmental Affairs, Pegasus Gold Corporation, and he has been fortunate to work with the Department of Health in drafting the amendments to SB-224. He did not come prepared to discuss this, and there may be a gap not covered. As a representative of the mining industry, he is concerned that this bill not get involved with duplicate permit processes, and multiple standards that a mine might need to obtain. He suggested that an additional Part d. be added that would add "is regulated under a state reclamation act, Title 82, Chapter 4, Part 1-3. That would clarify that coal mines and hardrock mines would not be subject to regulation by the local district, but sand and gravel operations that are currently operated, can be regulated if so desired by the local areas. He

will submit the wording to this amendment to C. Erickson, the committee's Legislative Council member.

Ken Williams, Montana Power Company and Entech, he wanted to reiterate Mr. Fitzpatrick's concerns about the Department of Health letting the industry representative help work on the amendments. He offered one additional amendment that would cover and clarify that existing major stationary sources that may not be regulated under the Federal Clean Air Act prior to the passage of the amendments of last fall, would be subject to this same amendment. Specifically, Title 4 which is the acid rain provision to the Federal Clean Air Act. (Exhibit #5).

Ward Shanahan, Stillwater Mining Company, they have a mine at Nye, and one will be south of Big Timber, and a smelter at Columbus. They certainly would support this bill if the amendments can be adopted. Stillwater Mining would be regulated under the Federal Clean Air Act and the Montana Act as well as the Reclamation Act. They feel those are sufficient, and another level of regulation is one too many.

Opponents' Testimony: none

Questions From Committee Members:
Senator Eck asked Senator Vaughn if she could state what the original intent of this bill was before any amendments were presented? Senator Vaughn said it was to let local governments work on their small problems like wood burning problems. By setting up these districts they would have a better way to deal with these problems. They could control the wood burning and enforce the regulations in a manner that the communities could live with. It also enables local district to get funding to do something about it. The initiative petition that is currently available is cumbersome, and some areas of the county are not concerned with the problems, so it was difficult to get the signatures on the petition. This way the district can be established within the areas that particularly need it right now, and expand it later if needed. They still have to go through the public hearing process and involve the local people. They just don't have to gather signatures. The main concern was to address the woodstoves and these kinds of problems that they are having in the areas.

Senator Hammond asked if there is still a vote with this bill? Senator Vaughn said that there is a public hearing, just like any other district formation. There is no voting in this process. Senator Hammond asked why it is so difficult to get 15% on a

petition? Senator Vaughn said it is hard to find people who will sign a petition. This allows districts within counties. Signature gathering is difficult. The people can still be heard, but this process is simpler. Senator Hammond asked how the people decide if they want the district or not? Senator Vaughn said they did that through the public hearing. They can petition the commission not to establish the district. Senator Hammond asked if this bill would give the districts the right to enforce stricter air standards than the state of federal regulations allow? Senator Vaughn said yes it would, if they decided to have stricter standards.

Senator Thayer asked if there was a fiscal note to this bill? Senator Vaughn said that there was not because the funding for these districts is currently available through the Federal Government loans and state grants programs, and funds would be raised by the fee system if the district enacted one.

Senator Thayer asked Larry Fenster why he felt it would be hard to get a district in Lincoln or Augusta? Mr. Fenster said that it would be difficult to get the signatures because of the types of fuels that are available to the people there. Natural gas is not available in Lincoln, and electric heat is supplemented with wood. Senator Thayer said what he was getting at was that the people did not want to pay for permits? Mr. Fenster said he assumed that they would not want to pay for permits, or have a drastic change in their lifestyles.

Senator Eck asked Senator Vaughn what section of the bill addresses how the districts will be formed? Senator Vaughn said that districts can be set up anywhere, for a whole county or areas within one. Senator Eck asked if there was no cost to be imposed on the area setting a district up? Senator Vaughn said only the area within the district would pay the fee if one is set. She said people don't always want these regulations, but in time, the federal regulations from the Federal Clean Air Act will come down and impose standards on these areas. This bill gives them a better way to get a hold of the problem. Regulations can be worked out before the Federal Government tells them what they have to do within a certain length of time. They will already have started, and be able to comply with what they have prior to the federal regulations. Senator Eck asked what kind of permit fees would be imposed? Mr. Raisch answered the question by saying that there are two aspects to the permit fees. Some communities have woodstove programs that charge permit fees for stoves. Other existing programs like Missoula, Cascade, Yellowstone, and Lewis and Clark counties, issue permits to smaller industrial sources. This would provide the authority for

them to continue these fees at the local level. There are some federal changes that require a special fund at the state level. This would make sure that if counties are issuing the small industrial permits that the money does not go to the state, it stays where the work is being done. Senator Eck asked if there were any communities that are now collecting fees from some of the industries that would be exempted? Mr. Raisch said no, none of the industries that pay fees would be on the exempt list.

Senator Beck said the amendment use words like more stringent and more extensive, he wonders if there is a cap or realistic figure? Mr. Raisch said that this particular part of the bill is existing statute. The crossed out section is a duplication of what was put in. This is important because the Federal Clean Air Act requires areas that are violating the ambient standard to develop control plans to bring the area into compliance. The amount of control necessary varies from community to community. Some are marginally above the standard while others are drastically above. It is important for the local district to have authority if needed to adopt fairly stringent requirements in those areas way above the standard.

Senator Hammond asked if local areas can provide permits how are the permits going to help provide for better air? Mr. Raisch said that it is two-fold. There are no communities right now that are collecting fees for woodstoves in Montana. The idea is to use some of the funding to support their air quality program that does the monitoring, issues the curtailments, the equipment and personnel to do this. Part of this would be to fund this, to insure that the alert is called at the right time. The other reason would involve new construction of homes to make sure that the stove put in is a very clean burning stove. Senator Hammond asked if this would become part of the building code? Mr. Raisch said that Missoula stoves have to be clean burning. He thought the building inspector that does the inspection of new homes, and then there is periodic renewal that requires the reporting of parts replaced or wear out. Senator Hammond said it sounded like the charge for the permits was so that there was money to operate? Mr. Raisch said it would be up to the local district. Permit fee is not required for woodstoves by the state. If the local community felt it was a way to develop their program they would have the option to do that.

Senator Eck asked Mr. Raisch if they have a pollution control district in Billings? Mr. Raisch said yes they do. Senator Eck asked how this would allow them to address that problem? Mr. Raisch said this wouldn't change their system because they already have a local control program which was authorized by

petition drive over 15 years ago. They do a lot of air monitoring, some work in road dust, and they may do some additional work with regard to carbon monoxide in the future. This would probably not change anything for them. They are already receiving state and federal aid at this time. Senator Eck asked if it would limit their ability to monitor the large plants? Mr. Raisch said that the Board of Health is the one who monitors large facilities, not this local control district. They have some smaller industrial facilities like the grain mills and asphalt plants that they issue permits on and do enforcement and the inspection. The large ones like the refineries and power plants are under the Department of Health and Environmental Sciences. The board withheld authority for those large sources when they approved those programs years ago. This bill would put what the board has done in the past into the statutes.

Closing by Sponsor: Senator Vaughn said that she felt the committee had a good discussion of the bill. She said the local governments were not interested in trying to control the big sources like the mines, mills, and refineries. They want to get a handle on these smaller problems before the Federal Governments says they have to. She has no reason to feel the amendments would not be acceptable. She asked the committee to look favorably on SB-224 as amended.

Senator Vaughn took over the chair after the hearing on SB-224.

HEARING ON SB-261

Presentation and Opening Statement by Sponsor: Senator J.D. Lynch, District 34, said that has been four years since he brought a water bill before this committee. He successfully brought legislation that dealt with the two major water companies that are here today. That bill was ultimately brought to the 9th Court of Appeals in San Francisco to prove it unconstitutional. He wanted to report to the committee, that their diligence in passing the legislation was proved to be constitutional and was upheld 3-0 by the 9th Circuit Court of Appeals. SB-261 is a different matter. It is a bill, that many people hope will never have to be utilized. It provides the ultimate taking over the

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 2-12-91

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck	X		
Senator Bengtson	X		X
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

SPECIFIC TESTIMONY:

The current Montana law requires a petition signed by 15 percent of the electorate to establish a local air pollution control program. Furthermore, the Environmental Protection Agency will not recognize a local program unless it is established pursuant to state laws. This bill would replace the petition with a public hearing before the governing bodies of the county and/or municipality, and require the subsequent approval. Petition drives require an enormous amount of volunteerism and are extremely time consuming. This bill would streamline the process while maintaining public involvement.

The adoption of revised federal standards for particulates (PM-10) during 1987 created an immediate need to establish additional local air pollution control programs. Montana is responsible for improving air quality within six communities which are exceeding the state and federal air quality standards for particulates (PM-10), and two areas which are exceeding the standards for carbon monoxide. Several other communities may be approaching these standards. Public health concerns and federal regulations require the development and implementation of an emission control plan for each community which exceeds the standards.

Technical studies conducted by the department indicate that areawide emission sources such as automobiles (exhaust and road dust whipped into the air) and wood stoves are Montana's major sources of PM-10 and carbon monoxide. Sources such as these are best controlled at the local level where officials can tailor the control plan to the severity of the problem and local customs and resources. For example; the implementation of a program to curtail wood burning during air pollution episodes should consider such local factors as; the number of homes where wood is the only source of heat, the number of low income

households, what alternative energy sources are available, and how often violations occur. Furthermore, such a program will require local personnel to monitor air quality and meteorological data to initiate and enforce a curtailment.

The department believes that local officials are in a much better position than the state or federal government to develop and administer an effective emission control program. If a state or federal program were developed it would likely be more general in nature and somewhat insensitive to local needs. Furthermore, it would be inefficient to assign additional state or federal employees to these communities when qualified city/county employees are already available.

This bill would also clarify certain issues concerning the funding of local air pollution control programs. When the Montana Clean Air Act was initially enacted, federal financial aid was granted directly to local programs. In recent years, federal aid has been granted to the state and subsequently granted to local air pollution control agencies. Since state aid is limited to 30 percent of local funds, it is essential that state aid be clearly defined so that it does not include pass through federal aid. This bill would accomplish this objective. The alternative interpretation would result in reduced revenue for local air pollution control programs. Amendments have also been included to clarify that any permit fees collected by a local air pollution control program will remain with the local agency for administration of the program.

And finally, this bill would allow the Montana Board of Health and Environmental Sciences, for good cause, and after public notice and a public hearing, to withdraw authority for administration of individual parts of a local air pollution control program. Presently, the board must withdraw the authority

for the entire local program, even if the shortcomings are limited to just one part of the program. In short, this bill would add flexibility on how the state administers oversight of local air pollution control programs.

In conclusion, the department believes this bill would lead to more efficient and locally acceptable solutions to a public health problem. Therefore, we recommend passage of Senate Bill 224.

INFORMATION SHEET

1. Communities under Montana's Jurisdiction which are exceeding the air quality standards for PM-10 and carbon monoxide:

   Butte/Silver Bow: PM-10
   Columbia Falls: PM-10
   Great Falls: carbon monoxide
   Kalispell: PM-10
   Libby: PM-10
   Missoula: PM-10 and carbon monoxide
   Thompson Falls: PM-10

2. Other communities which may be approaching the Air Quality Standards for PM-10 and carbon monoxide:

   Billings: carbon monoxide
   Bozeman: carbon monoxide
   Butte: carbon monoxide
   Whitefish: PM-10

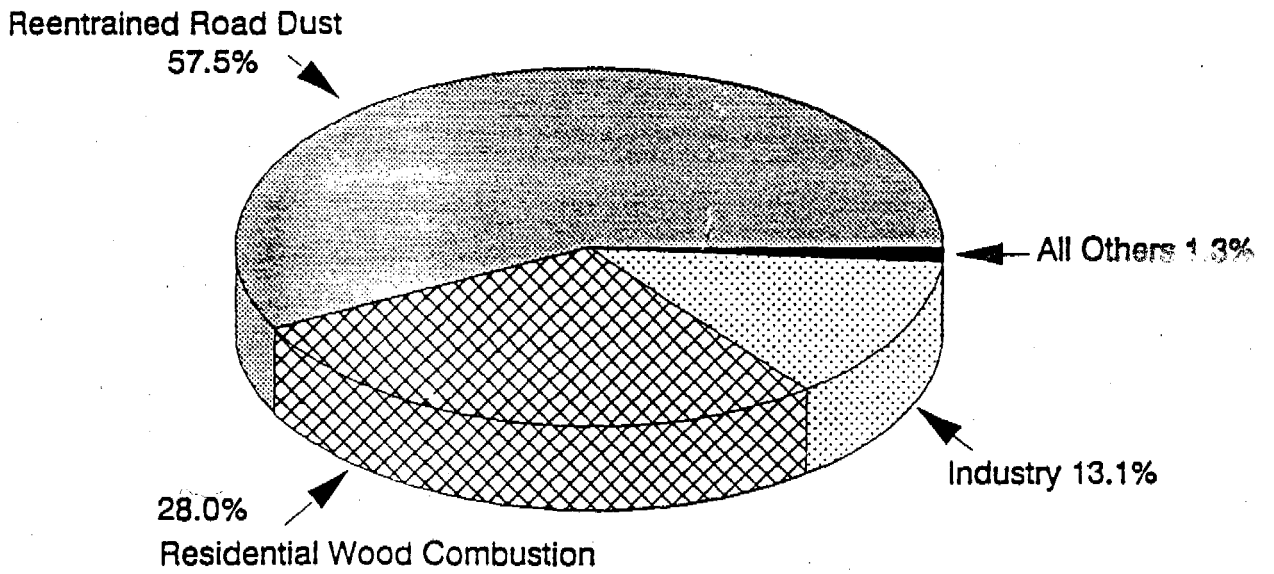
3. Communities with existing local air pollution control programs:

   Cascade County
   Lewis and Clark County (limited program)
   Missoula County
   Yellowstone County

PM10 Emissions by Source Category

Typical Montana Community [1]

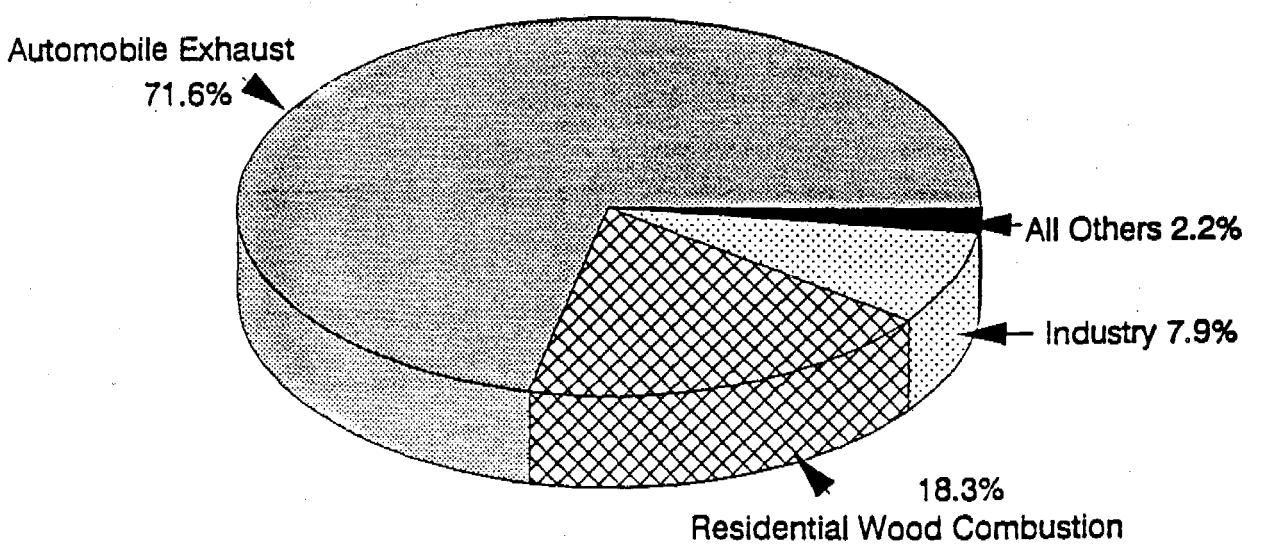
October - March



Carbon Monoxide Emissions by Source Category

Typical Montana Community [2]

October - March



1 Based on data from Libby, Butte, Kalispell and Missoula

2 Based on data from Billings, Great Falls, and Missoula

AIR QUALITY BUREAU

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 2
DATE 2-12-91
BILL NO. SB-224

(406) 444-3454
FAX # (406) 444-1374

February 12, 1991

MEMORANDUM

TO: Senator Vaughn

FROM: Bob Raisch, Air Quality Bureau

SUBJECT: Proposed Amendments to SB 224

These amendments to SB224 are necessary due to new federal guidance concerning requirements of the new Federal Clean Air Act and to accommodate concerns of Montana's industrial sector.

The first and second amendments are necessary to ensure that the state has backup enforcement authority to enforce those aspects of a local program which are part of the State Implementation Plan (SIP). This ensures implementation even if the local air pollution control agency fails to enforce them. For example, if a local wood stove curtailment program has been incorporated into the SIP as a means to achieve compliance with federal air quality standards, the state must have backup enforcement powers to ensure the curtailment program is carried out. The board order will serve as the legal basis for state enforcement, if it is necessary.

The third amendment is necessary because the new clean air act amendments allow permit fees to be spent on a broader spectrum of permitting activities (such as enforcement, inspections, emission inventory, air monitoring and emission monitoring) than might be construed by reference to 75-2-211 and 75-2-215.

Finally, the fourth amendment was developed at the request of several of Montana's industries and is acceptable to the department. This amendment ensures that the authority to regulate large complex industrial sources will remain with the state and not be delegated to a local air pollution control program.

BR/ckp

PROPOSED AMENDMENTS TO LOCAL PROGRAMS LEGISLATION

NOTE: These amendments are to the draft legislation as it currently reads (SB 224-LC1194/01).

1. Section 1

(3) the board BY ORDER may approve a local air pollution control program that:

(a) . . . .

2. Section 1

(7) If the jurisdiction fails to . . ., all of the provisions of this chapter, including the terms contained in any applicable board order, that are necessary . . .

3. Section 1

(3)(c) provides for administrative organization, staff, financial resources, and other resources necessary to effectively and efficiently carry out the program. As part of meeting these requirements, a local air pollution control program may administer the permit fee provisions of 75-2-211. The permit fees collected by a local air pollution control program must be deposited in a county special revenue fund to be used by the local air pollution control program for administration of ~~program~~ permitting activities ~~conducted pursuant to 75-2-211 and 75-2-215~~.

4. Section 1

(8) If the board finds that the control of a particular air contaminant source . . . . ., . . . in which they are located. In approving a local air pollution control program pursuant to this section, the board shall not delegate the authority to control any air contaminant source that:

(a) requires the preparation of an environmental impact statement pursuant to Title 75, chapter 1;

(b) is subject to regulation under the Major Facility Siting Act, Title 75, chapter 20; or

(c) is regulated as a major stationary source pursuant to provisions of the federal Clean Air Act (42 U.S.C. 7401 - 7626), as amended, relating to either the prevention of significant deterioration of air quality (42 U.S.C. 7470 - 7479), or the plan requirements for nonattainment areas (42 U.S.C. 7501 - 7508).

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 2a
DATE 2-14-91
BILL NO. SB-224

PROPOSED AMENDMENTS TO S.B. 224

Senate Bill 224, first reading copy, is hereby amended to read as follows:

1. Page: 1
Line: 12
Following: "Programs;"
Insert: "Restricting the types of air pollution sources that may be regulated by a local air pollution control program;"

2. Page: 2
Line: 13
Following: (3)
Strike: "The"
Insert: "Except as provided in subsection (4), the"

3. Page: 3
Following: Line 7
Insert: "(4) Except for those emergency powers provided for in 75-2-402, the board may not delegate authority to control any air contaminant source that:

(a) requires the preparation of an environmental impact statement pursuant to Title 75, chapter 1;

(b) is subject to regulation under the Major Facility Siting Act, Title 75, chapter 20; or

(c) is regulated as a major stationary source pursuant to provisions of the federal Clean Air Act (42 U.S.C. 7401 - 7626), as

amended, relating to either the prevention of significant deterioration of air quality (42 U.S.C. 7470 - 7479), or the plan requirements for nonattainment areas (42 U.S.C. 7501 - 7508).

Renumber all subsequent subsections.

4. Page: 5

Line: 3

Following: "subsection ~~(5)~~"

Strike: "(7)"

Insert: "(8)"

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 3
DATE 2-12-91
BILL NO. SB-224

Feb. 11, 1991

RE: Apponent of Senate Bill # 224

Mr. Chairman and Members of the Committee:

For the record, my name is Dan Powers. I a the Environmental Health Director for Butte-Si Bow.

At this time, I would like to voice my opinion as being a strong proponent of Senat Bill # 224.

In July of 1987, the Environmental Protec Agency promulgated new ambient air quality standards known as the PM-10 Law or Rul PM-10 stands for particulate matter of 10 mic or less. With this, cities and towns were placed in 3 different categories; Group I areas - 95% chance or > of exceeding standa Group II areas - 20-95% chance of exceeding standards & Group III areas - 0-20% chance of exceeding these new standards.

Butte was designated a Group I area which means that it has a substantial, long term air pollution problem which directly effects the health and well being of the citizens of Butte-Silver Bow and visitors alik

Prior to the 1987-88 burning season, Butte Silver Bow did not have an air pollution progra With a tremendous amount of assistance fro

help us develop our program further. Also, at the present time, Butte-Silver Bow does n provide any money for an air quality progr

Efforts during the past few years to secure the signatures of 15% of the registered voters in Butte-Silver Bow have failed. We need approximately 2500 signat We now have roughly 1400 signatures. This he proved to be a very time consuming and difficult process. With this, our reacquired designation as an air pollution control distric has eluded us.

Through much hard work, we have reduced our air pollution problem to some degree. We still have a very long way to go and with passage of this bill, we could provide adequ staffing, enforcement, equipment, and educati which will make our city a more attracti and livable area.

MISSOULA COUNTY
MISSOULA
CITY-COUNTY
301 W. ALDER
MISSOULA, MONTANA 59802
(406) 721-5700

Testimony Concerning Senate Bill 224
Senate Local Government Committee
February 12, 1991

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 4
DATE 2-12-91
BILL NO. SB-224

Chairman Bengston and Honorable Committee Members,

My name is Jim Carlson. I am the Director of Environmental Health Division of the Missoula City-County Health Department. The Missoula City-County Health Department is in favor of the passage of Senate Bill 224. Missoula County has had a local air pollution control program since 1968. In situations where many, many small sources of air pollution contribute to a significant air pollution problem, local government is best able to deal with these problems. Such small sources includes wood stoves, open burning and automobiles. Although there is a regulatory function to local air pollution control programs, public education and cooperation between local government and it's citizens is the only viable means of achieving air quality standards. A program of this type necessitates that the agency be in the town where the problem is occurring so that it can talk to people, cajole people, educate people and even occasionally regulate people. This bill would allow for easier creation of local air quality districts, and it is appropriate that the State encourage the creation of these districts to bring it's cities and towns into compliance with Federal standards.

The creation of Missoula's district occurred when most of our air quality problem was from industrial sources. At that time (1968) there was a "them" and "us" attitude in town which made it relative easy to get the adequate signatures to create the district under current law. I am sure it would be much more difficult for us to have done this in the mid 1970's when we had 50% of our population was causing our wood stove smoke problem.

We must recognize that local programs have been successful. Missoula has been able to go from 150 violations of the particulate standards per year down to 0 TO 1 violations per year. Likewise with carbon monoxide. We have been able to go from 77 violations per year in the mid 70's down to 0-1 violation per year.

This Bill also provides for a clarification of the difference between Federal pass through monies and State general fund monies which are passed on to local districts. We appreciate this clarification and feel that it should be passed.

There is an amendment which may be proposed requesting further limitation of the powers of local programs to regulate large sources. Missoula has had this responsibility for 21 years, and has not abused that authority. Our local industry has indicated that they appreciate the ability to deal with us at the local level rather than through Helena. Please keep in mind that all local air quality regulations must be approved by the the local air quality Board, the State Board of Health and the elected county commission before they go into effect.

We are very proud of our industrial community in the way that they have worked with us to develop programs to attain compliance with air quality standards. This is best demonstrated by the fact that the Missoula Chamber of Commerce organized and sponsored Clean Air Week in Missoula for four consecutive years. If the committee feels that further restrictions of local authority are necessary, we will, in the spirit of cooperation, support the language drafted by DHES which I am attaching.

In summary, we support this Bill and urge you to pass it as drafted.

Jim Carlson, Director
Environmental Health Division

4. Section 1

(8) If the board finds that the control of a particular air contaminant source . . . . ., . . . in which they are located. In approving a local air pollution control program pursuant to this section, the board shall not delegate the authority to control any air contaminant source that:

(a) requires the preparation of an environmental impact statement pursuant to Title 75, chapter 1;

(b) is subject to regulation under the Major Facility Siting Act, Title 75, chapter 20; or

(c) is regulated as a major stationary source pursuant to provisions of the federal Clean Air Act (42 U.S.C. 7401 - 7626), as amended, relating to either the prevention of significant deterioration of air quality (42 U.S.C. 7470 - 7479), or the plan requirements for nonattainment areas (42 U.S.C. 7501 - 7508).

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 5
DATE 2-14-91
BILL NO. SB-224

Purposed Amendment to
Senate Bill 224

Page 3, following line 7, insert:

(4) "The board may not delegate authority to control any air contaminant source that:

(d) is an "affected source" as that term is defined by Title IV, The Clean Air Act of 1990 and amendments.

method of review every 10 years can change the governing structure, but most see consolidation to do the same, so county commissioners are changing government without consulting voters first.

Senator Beck asked Senator Harding who opposed this bill in the hearing? Senator Harding said the only opposition was by MACo.

Senator Waterman stated that Lewis and Clark consolidated and the voters upheld the consolidation by voting on a resolution that was requested. People have a voice, and if enough are concerned that will go through the current process. Senator Waterman said that Lewis and Clark, under this bill, would have had to postpone the election for two years, hire someone until then, all because the person in this office had died suddenly.

Senator Bengtson stated that she knew the person that requested this bill, and she felt that the person had a personal grievance with the county commissioners, and so this bill was personal. This bill would hamstring local government in a time that we are trying to give them back control.

Motion: Senator Kennedy moved to Table SB-221. A roll call vote was taken. The committee was voted 4-3 not to table. Senator Eck voted later in the meeting and tied the vote, so SB-221 is tabled. Senator Hammond did not vote. (A motion by Senator Beck to Do Pass SB-221 that had passed, was voided when Senator Eck cast her vote to table SB-221 and against a do pass).

EXECUTIVE ACTION ON SB-224

Amendments, Discussion, and Votes: Senator Vaughn presented the amendments that have been drafted by the EQC and the industries concerned. The industries all received copies of the amendments, and told to call EQC if they had any problems with them (Exhibit #1). Senator Vaughn said the Libby air quality control person had no problems with these changes. C. Erickson explained the amendments, and reiterated that they did not try to regulate the major industries that are already controlled by the state and federal government.

Senator Beck asked if this bill simply gives the local people authority to deal with woodstoves and road dust? C. Erickson said that was correct, and some minor industries might be covered under this act.

Senator Vaughn moved the amendments. The vote was unanimous.

Motion: Senator Vaughn moved to Do Pass SB-224 as amended.

Discussion: Senator Thayer was concerned about testimony given that some communities would not pass such a measure, like Lincoln and Augusta. Senator Vaughn explained to Senator Thayer that these districts are now done by petition, signed by 15% of the county. This bill allows areas within the county to form districts, through public hearings instead of petitions, so the entire county approval is not needed because they would not be in the district. A group from Denver, Colorado that are helping with the study, will mean that funding will be available . There is federal monies available to help people in these districts to convert their stoves if needed, but only to those in these types of districts. Being able to form these districts, district residents can confront their air problems like woodstoves and road dust, and have funding available to accomplish it.

Senator Beck asked Linda Stoll-Anderson what the boundaries of the district was in Helena. Ms. Anderson said it did not take in the entire county. It is known as the Helena Valley Air Shed. Senator Waterman said that areas that have formed these districts have realized they had problems, and have recognized something needed to be done. There only concern was that having some time to do it, and the county has been good about.

Votes: The motion to Do Pass SB-224 as Amended was taken as a roll call vote, and it passed unanimously.

EXECUTIVE ACTION ON SB-195

Amendments, Discussion, and Votes: Senator Bengtson said that the concerns raised during the hearing on SB-195 had been considered when drafting amendments to the bill. The need for a timely review that would not hold up the subdivision review process was noted. C. Erickson explained the amendments. (Exhibit #2).

Senator Thayer asked what the term "public record" was defined as? Would it be "public records in the courthouse"? He presented a letter outlining the surveyors' concerns about the time frame of the review, location of records, and the cost factors (Exhibit #2A). C. Erickson said that the amendment could be modified to

SENATE STANDING COMMITTEE REPORT

February 16, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 224 (first reading copy -- white), respectfully report that Senate Bill No. 224 be amended and as so amended do pass:

1. Title, line 12.
Following: "PROGRAMS;"
Insert: "RESTRICTING THE TYPES OF AIR POLLUTION SOURCES THAT MAY BE REGULATED BY A LOCAL AIR POLLUTION CONTROL PROGRAM;"

2. Page 2, line 13.
Strike: "The"
Insert: "Except as provided in subsection (4), the"
Following: "board"
Insert: "by order"

3. Page 3, line 6.
Strike: second "program"
Insert: "permitting"

4. Page 3, lines 6 and 7.
Strike: "conducted" on line 6 through "75-2-215" on line 7

5. Page 3.
Following: line 7
Insert: "(4) Except for those emergency powers provided for in 75-2-402, the board may not delegate to a local air pollution control program the authority to control any air contaminant source that:

(a) requires the preparation of an environmental impact statement in accordance with to Title 75, chapter 1, part 2;

(b) is subject to regulation under the Montana Major Facility Siting Act, as provided in Title 75, chapter 20; or

(c) has the potential to emit 250 tons per year or more of any pollutant subject to regulation under this chapter, including fugitive emissions, unless the authority to control the source was delegated to a local air pollution control program prior to January 1, 1991."
Renumber: subsequent subsections

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-16-91 Bill No. SB-224 Time 9:44am

NAME	YES	NO
Senator Beck	X	
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond		
Senator Harding	X	
Senator Kennedy	X	
Senator Thayer	X	
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: Do Pass SB-224 as Amended

6. Page 4, line 9.
Following: "chapter"
Insert: ", including the terms contained in any applicable board order,"

7. Page 5, line 3.
Strike: "(7)"
Insert: "(8)"

Signed: Esther G. Bengtson
Esther G. Bengtson, Chairman

2-16-91
Amd. Coord.

SK 2-16 11:15
Sec. of Senate

CHAIRMAN--DIANA WYATT
NORMAL SCHEDULE==> SITE: ROOM 312-2 DAYS: M,W,F TIME: 3:00 P.M.
SECRETARY-LOIS O'CONNOR

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0201	2/09	3/07		CONCUR		3/08
BROWN, BOB			REQUIRE COUNTY ATTORNEY TO SERVE AS LEGAL ADVISER TO FIRE SERVICE AREAS			
SB0221	3/04	3/11		TABLED		
HARDING, ETHEL			REQUIRING AN ELECTION TO CONSOLIDATE COUNTY OFFICES			
SB0224	3/04	3/11		CONCUR		3/12
VAUGHN, ELEANOR			ESTABLISHMENT AND FUNDING OF LOCAL AIR POLLUTION CONTROL PROGRAMS			
SB0261	3/04	3/11		CONCUR		3/14
LYNCH, J.D.			REVISE LAW OF MUNICIPAL AND METROPOLITAN WATER SUPPLY -- AUTHORIZE TAKING			
SB0276	3/04	3/13		CONCUR AS AMENDED		3/14
FRITZ, HARRY			PARTIAL SALARY FOR FIREFIGHTER INJURED IN PERFORMANCE OF DUTY			
SB0305	3/04	3/13		CONCUR		3/14
ANDERSON, JR., JOHN			ALLOW MULTIJURISDICTIONAL SERVICE DISTRICT TO PROVIDE AMBULANCE SERVICE			
SB0334	3/04	3/13		CONCUR		3/14
HARDING, ETHEL			REVISE PERSONAL LIABILITY FOR COUNTY OFFICIALS WHO EXCEED BUDGETS			
SB0357	3/04	3/13		CONCUR		3/14
BECK, TOM			REQUIRE DHES TO CONSULT WITH LOCAL GOVT'S ABOUT SOLID WASTE FACILITIES			
SB0367	3/04	3/13		CONCUR		3/14
CRIPPEN, BRUCE			AUTHORIZE PROPERTY TRANSFER TO YELLOWSTONE ART CENTER FOUNDATION			
SB0437	3/04	3/13		CONCUR		3/14
BROWN, BOB			LAKE DEVELOPMENT PERMITS			
SB0440	3/04	3/18		CONCUR AS AMENDED		3/19
BENGTSON, ESTHER			GENERALLY REVISE LAWS RELATING TO COUNTY-APPOINTED BOARDS			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By DIANA WYATT CHAIR, on March 11, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Diana Wyatt, Chair (D)
Jessica Stickney, Vice-Chair (D)
Joe Barnett (R)
Arlene Becker (D)
Vivian Brooke (D)
Dave Brown (D)
Brent Cromley (D)
Paula Darko (D)
Tim Dowell (D)
Budd Gould (R)
Stella Jean Hansen (D)
Harriet Hayne (R)
Ed McCaffree (D)
Tom Nelson (R)
Sheila Rice (D)
Richard Simpkins (R)
Norm Wallin (R)

Members Absent: Rep. J. Rice (R)

Staff Present: Bart Campbell, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 224

Presentation and Opening Statement by Sponsor:

SEN. VAUGHN, Senate District 1, Libby, stated SB 224 would allow local governments to set up local air pollution programs, and streamline the procedure for establishing local air pollution programs by deleting law that states they must have petitions to set up the programs. They could have a public hearing and the people would be involved. It would allow the counties to apply for state and federal grants and establish fees if necessary.

Proponents' Testimony:

Robert Raisch, Department of Health and Environmental Sciences, provided written testimony. **EXHIBIT 1**

Jan Gilman, Department of Health and Environmental Sciences, provided written testimony. **EXHIBIT 2**

Dan Powers, Environmental Health Director, Butte-Silver Bow, stated that the Butte-Silver Bow Health Department has administered an air pollution ordinance for Butte, and they have been successful in lowering the particulate emissions through education and wood burning ordinances. The program was run on inkind cost and donations from the Air Quality Bureau. At present, Butte-Silver Bow does not allot any funding for the air quality program. With these constraints, it makes it difficult to run a viable air pollution program. SB 224 would allow cities to receive funding, at no cost to the taxpayers, and allow needed programs to continue to develop.

Opponents' Testimony: None

Questions From Committee Members:

REP. BECKER asked **Robert Raisch** how the programs will be paid for. **Mr. Raisch** stated the current appropriations bill before the Legislature provides additional federal funds to be granted to the local programs.

REP. McCAFFREE stated that on Page 2, Line 18 it states "provide by ordinance or local law for requirement compatible with", and asked what local law it refers to. **Mr. Raisch** said it is an ordinance adopted by the local Board of Health and approved by the County Commissioners and City Council. **REP. McCAFFREE** asked if the law gives the local Board of Health the authority, which they do not have at present, to adopt an ordinance. **Mr. Raisch** said yes.

REP. WALLIN asked **Dan Kemmis, Mayor, Missoula,** what Missoula has done, without taxing cars, to clean its air. **Mr. Kemmis** stated Missoula has made great progress in cleaning its air but still has problems.

REP. S. J. HANSEN expressed concern about the Senate amendments which do not allow local governments to regulate large industry and asked **SEN. VAUGHN** what the intent of the amendments were. **SEN. VAUGHN** said they wanted to make sure that local governments didn't enact further laws that would make them file extra forms and perform extra duties over and above the federal and state requirements. The local air quality people do not want to be responsible for taking over the large companies. The amendments would make it so that local governments couldn't enact requirements that are more regulatory than what now exists.

Closing by Sponsor:

SEN. VAUGHN stated SB 224 can serve a real purpose where there are air quality problems within local areas and asked that **REP. DARKO** carry the bill.

HEARING ON SB 221

Presentation and Opening Statement by Sponsor:

SEN. HARDING, Senate District 25, Polson, stated SB 221 would require an election for the consolidation of county offices. County officials are elected and have daily association with their constituents. They would like to be assured, after they have been elected, that their offices will not be consolidated without the vote of the people. SB 221 provides an election in the middle of their four year terms.

Proponents' Testimony:

Merrill Klundt, Yellowstone Clerk and Recorder, provided written testimony. **EXHIBIT 3**

SEN. VAUGHN stated that people vote for who they want in office. It is only right that they have the say in whether the office is to be consolidated.

Lisa Ferkovich, Sanders County Clerk of Court, said the law should comply with the new constitution and the decision to consolidate county offices should be put to the voter.

Kathleen Brewer, Clerk, District Court, Missoula County supported SB 221.

Tom Harrison, Montana Clerks of Court Association, stated the Association has a structured procedure by which positions are taken. They are presented at its annual convention, fully debated; and only in selected cases, do they adopt a formal resolution of position. He urged support of SB 221.

Opponents' Testimony:

Gordon Morris, Montana Association of Counties, stated there are 56 counties who have consolidated various offices. This is an issue that should be left to the prerogative of the County Commissioners to retain the authority to determine if it is to the county's advantage to consolidate. Currently, the offices can only be consolidated at the end of an election term, with the exception of the Clerks of Court who fall into a different election cycle. If that office is to be consolidated, it would have to be done prior to the election in 1992. It could not be implemented until the end of the office for which it was proposed to be consolidated with at the end of their term prior to the election in 1994. Section 2 of SB 221 takes the prerogative of

REP. BROOKE asked **Gordon Morris** how a County Commissioner compares to being a lobbyist. **Mr. Morris** said it is comparable. **REP. McCAFFREE** asked what percentage of tax dollars does the county government spend. **Mr. Morris** said counties spend approximately 22 1/2 cents of every tax dollar. The schools get approximately 75 cents, the counties get slightly lower than the 22 1/2 cents, and the cities get the balance.

Closing by Sponsor:

SEN. GAGE stated the study committee could report to the Legislature what areas need to be reorganized. It will be beneficial for the Legislature to know this.

EXECUTIVE ACTION ON HB 939

Motion: **REP. S. RICE MOVED HB 939 DO PASS.**

Discussion:

REP. S. RICE stated the HB 939 is an urban reforestation bill. She requested that the committee pass the bill unamended so it can be taken directly to Appropriations. There is another source of funding available so they don't have to dip into the Resource Indemnity Trust Fund. **REP. NELSON** said the reason there was no opposition to HB 939 was because the title doesn't betray the source of funding. **REP. D. BROWN** said because of the additional funding, he would like to see it go to Appropriations. **REP. SIMPKINS** said under the Federal Grant Program, this bill would not have any effect on it.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB 224

Motion/Vote: **REP. DARKO MOVED SB 224 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 102

Motion/Vote: **REP. DARKO MOVED SB 102 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 160

Motion/Vote: **REP. STICKNEY MOVED SB 160 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 261

Discussion:

REP. D. BROWN asked the committee not to hold SB 261 very long. He felt that there is no amendment acceptable to the bill. If

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL **DATE** 3-11-91

NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown	X		
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		X
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice			X
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

CS05LOCGOV.MAN

10.15

3-12-91

JDB

HOUSE STANDING COMMITTEE REPORT

March 12, 1991

Mr. Speaker: We, the committee on Local Government report that Senate Bill 224 (third reading copy -- blue) be concurred in and be placed on consent calendar .

Signed: _____

Diana Wyatt, Chairman

Carried by: Rep. Darko

EXHIBIT 1
DATE 3-11-91
HB SB 224

TESTIMONY
ON
SENATE BILL NO. 224

BEFORE THE LOCAL GOVERNMENT COMMITTEE OF THE MONTANA HOUSE OF REPRESENTATIVES

BY ROBERT RAISCH,
OF THE AIR QUALITY BUREAU OF THE
MONTANA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LAWS RELATING TO ESTABLISHMENT AND FUNDING OF LOCAL AIR POLLUTION CONTROL PROGRAMS; CLARIFYING EXISTING AUTHORITY RELATING TO THE COLLECTION OF PERMIT FEES BY LOCAL AIR POLLUTION CONTROL PROGRAMS; CLARIFYING THE RELATIONSHIP BETWEEN THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND THE LOCAL AIR POLLUTION CONTROL PROGRAM; RESTRICTING THE TYPES OF AIR POLLUTION SOURCES THAT MAY BE REGULATED BY A LOCAL AIR POLLUTION CONTROL PROGRAM; AMENDING SECTIONS 75-2-301 AND 75-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

INTRODUCTION:

The Montana Department of Health and Environmental Sciences is responsible for improving air quality in six communities which are exceeding state and federal air quality standards for particulates (PM-10) and several communities which are approaching the standards. This bill would streamline the procedures for establishing a local air pollution control program and allow these communities to develop air pollution control plans which are tailored to the specific needs of each community. Failure to establish a local program will lead to a state or federally mandated program.

This bill would also clarify certain aspects of the funding mechanism for local air pollution control programs by differentiating between state aid and federal aid and by allowing any permit fees collected by local programs to serve

as a source of funding for the program.

In addition, this bill prohibits the Montana Board of Health and Environmental Sciences from delegating to a local air pollution control authority the responsibility to regulate large complex industrial sources.

SPECIFIC TESTIMONY:

The current Montana law requires a petition signed by 15 percent of the electorate to establish a local air pollution control program. Furthermore, the Environmental Protection Agency will not recognize a local program unless it is established pursuant to state laws. This bill would replace the petition with a public hearing before the governing bodies of the county and/or municipality, and require the subsequent approval. Petition drives require an enormous amount of volunteerism and are extremely time consuming. This bill would streamline the process while maintaining public involvement.

The adoption of revised federal standards for particulates (PM-10) during 1987 created an immediate need to establish additional local air pollution control programs. Montana is responsible for improving air quality within six communities which are exceeding the state and federal air quality standards for particulates (PM-10), and two areas which are exceeding the standards for carbon monoxide. Several other communities may be approaching these standards. Public health concerns and federal regulations require the development and implementation of an emission control plan for each community which exceeds the standards.

Technical studies conducted by the department indicate that areawide emission sources such as automobiles (exhaust and road dust whipped into the air) and wood stoves are Montana's major sources of PM-10 and carbon monoxide.

Sources such as these are best controlled at the local level where officials can tailor the control plan to the severity of the problem and local customs and resources. For example; the implementation of a program to curtail wood burning during air pollution episodes should consider such local factors as; the number of homes where wood is the only source of heat, the number of low income households, what alternative energy sources are available, and how often violations occur. Furthermore, such a program will require local personnel to monitor air quality and meteorological data to initiate and enforce a curtailment.

The department believes that local officials are in a much better position than the state or federal government to develop and administer an effective emission control program. If a state or federal program were developed it would likely be more general in nature and somewhat insensitive to local needs. Furthermore, it would be inefficient to assign additional state or federal employees to these communities when qualified city/county employees are already available.

This bill would also clarify certain issues concerning the funding of local air pollution control programs. When the Montana Clean Air Act was initially enacted, federal financial aid was granted directly to local programs. In recent years, federal aid has been granted to the state and subsequently granted to local air pollution control agencies. Since state aid is limited to 30 percent of local funds, it is essential that state aid be clearly defined so that it does not include pass through federal aid. This bill would accomplish this objective. The alternative interpretation would result in reduced revenue for local air pollution control programs. Amendments have also been included to clarify that any permit fees collected by a local air pollution control program will remain

with the local agency for administration of the program.

In addition, this bill would allow the Montana Board of Health and Environmental Sciences, for good cause, and after public notice and a public hearing, to withdraw authority for administration of individual parts of a local air pollution control program. Presently, the board must withdraw the authority for the entire local program, even if the shortcomings are limited to just one part of the program. In short, this bill would add flexibility on how the state administers oversight of local air pollution control programs.

And finally, this bill will prohibit the Montana Board of Health and Environmental Sciences from delegating to a local air pollution control program the responsibility to control large complex industrial sources. This would include sources which would require an environmental impact statement or be covered by the Montana Major Facility Siting Act.

In conclusion, the department believes this bill would lead to more efficient and locally acceptable solutions to a public health problem. Therefore, we recommend passage of Senate Bill 224.

INFORMATION SHEET

1. Communities under Montana's Jurisdiction which are exceeding the air quality standards for PM-10 and carbon monoxide:

   Butte/Silver Bow: PM-10
   Columbia Falls: PM-10
   Great Falls: carbon monoxide
   Kalispell: PM-10
   Libby: PM-10
   Missoula: PM-10 and carbon monoxide
   Thompson Falls: PM-10

2. Other communities which may be approaching the Air Quality Standards for PM-10 and carbon monoxide:

   Billings: carbon monoxide
   Bozeman: carbon monoxide
   Butte: carbon monoxide
   Whitefish: PM-10

3. Communities with existing local air pollution control programs:

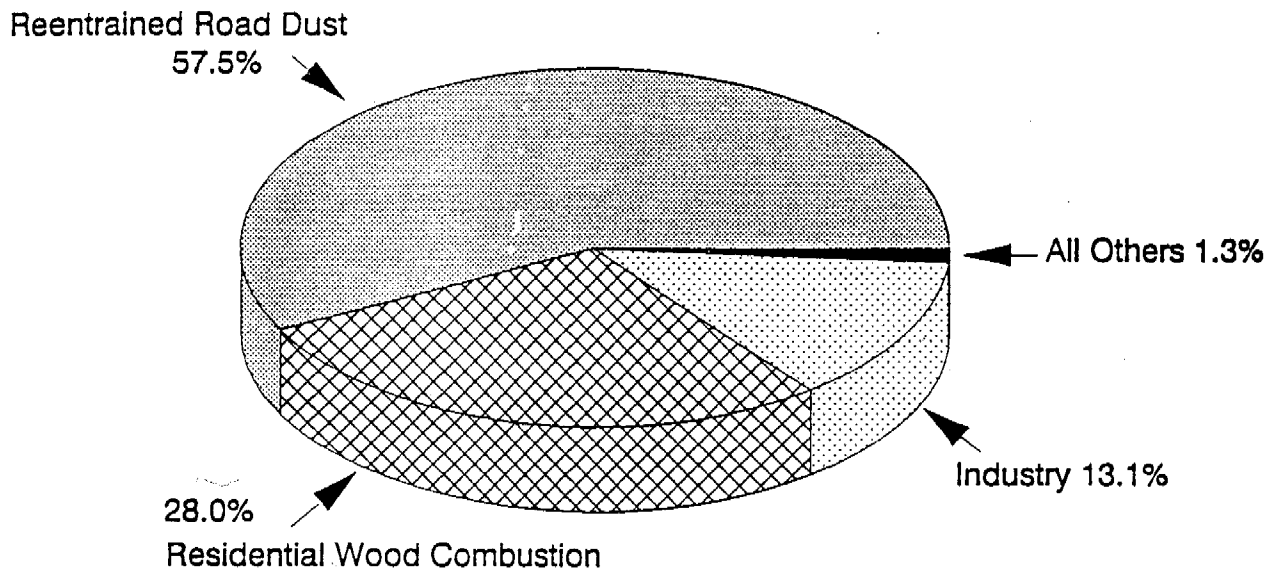
   Cascade County
   Lewis and Clark County (limited program)
   Missoula County
   Yellowstone County

Ex. 1 p. 6
SB 224

PM10 Emissions by Source Category

Typical Montana Community [1]

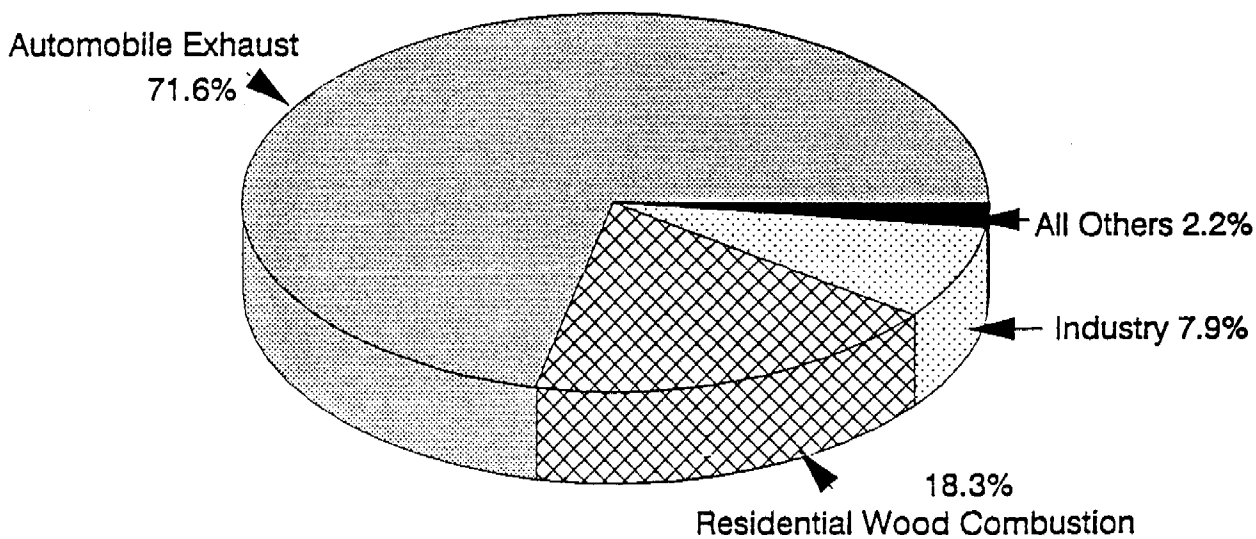
October - March



Carbon Monoxide Emissions by Source Category

Typical Montana Community [2]

October - March



1 Based on data from Libby, Butte, Kalispell and Missoula
2 Based on data from Billings, Great Falls, and Missoula

MISSOULA COUNTY
MISSOULA

CITY-COUNTY HEALTH DEPARTMENT
301 W. ALDER
MISSOULA, MONTANA 59802
(406) 721-5700

Testimony Concerning Senate Bill 224
House Local Government Committee
March 11, 1991

EXHIBIT 2
DATE 3-11-91
HB SB224

Chairman Wyatt and Honorable Committee Members,

My name is Jim Carlson. I am the Director of Environmental Health Division of the Missoula City-County Health Department. The Missoula City-County Health Department is in favor of the passage of Senate Bill 224. Missoula County has had a local air pollution control program since 1968. In situations where many, many small sources of air pollution contribute to a significant air pollution problem, local government is best able to deal with these problems. Such small sources includes wood stoves, open burning and automobiles. Although there is a regulatory function to local air pollution control programs, public education and cooperation between local government and it's citizens is the only viable means of achieving air quality standards. A program of this type necessitates that the agency be in the town where the problem is occurring so that it can talk to people, cajole people, educate people and even occasionally regulate people. This bill would allow for easier creation of local air quality districts, and it is appropriate that the State encourage the creation of these districts to bring it's cities and towns into compliance with Federal standards.

We must recognize that local programs have been successful. Missoula has been able to go from 150 violations of the particulate standards per year down to 0 TO 1 violations per year. Likewise with carbon monoxide. We have been able to go from 77 violations per year in the mid 70's down to 0-1 violation per year.

This Bill also provides for a clarification of the difference between Federal pass through monies and State general fund monies which are passed on to local districts. We appreciate this clarification and feel that it should be included.

There is an amendment included in the Senate version which further limits of the powers of local programs to regulate large sources. Missoula has had this responsibility for 21 years, and has not abused that authority. Our local industry has indicated that they appreciate the ability to deal with us at the local level rather than through Helena. Please keep in mind that all local air quality regulations must be approved by the the local air quality Board, the State Board of Health and the elected county commission before they go into effect.

We are very proud of our industrial community in the way that they have worked with us to develop programs to attain compliance with air quality standards. This is best demonstrated by the fact that the Missoula Chamber of Commerce organized and sponsored Clean Air Week in Missoula for four consecutive years. If the committee feels that further restrictions of local authority are necessary, we will, in the spirit of cooperation, support the language currently included in the Bill.

In summary, we support this Bill and urge you to pass it.

Jim Carlson, Director
Environmental Health Division

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Locals Government COMMITTEE BILL NO. SB 224

DATE 3-11-91 SPONSOR(S) Vaughn

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Robert Raisch	MT. Dept. of Health & ENVS			X
Jan Gilman	MT Dept of Health & ENVS			X
Dan Powers	Butte-Silver Bow Health			X
Senator Vaughn	Sponsor			X
Gordon Morris				
Jim Jensen	MEIC			X
Susan Lenard	MT Audubon			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.